THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION No.1521 of 2006

Dated 09-03-2006

Between:

Gundapuneedi Ramanna Dora.

..... PETITIONER

AND

The Joint Collector, Kakinada,

and two others.

.....RESPONDENTS

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION No.1521 of 2006

O R D E R:

The petitioner is the Dealer of the fair price shop No.24 of G. Medapadu Village, Samalkota Mandal, East Godavari District.

By order dated 24-01-2006 passed by the second respondent-Revenue Divisional Officer, Kakinada, the authorization of the petitioner was suspended pending enquiry under the provisions of the Andhra Pradesh State Public Distribution Control Order, 2001, into the alleged shortage of rice released to the petitioner under SGRY Scheme for distribution under Food for Work programme. It appears that the Civil Supplies Deputy Tahsildar, Samalkota, inspected the fair price shop of the petitioner on 08-08-2005 and during the inspection it was found that as against the stock of Qts.100.10 kgs of SGRY rice the physical ground balance available in the shop was only Qts.11.13 kgs and thus there was deficit of Qts.88.97 kgs. On the basis of the report dated 10-08-2005 received from the Civil Supplies Deputy Tahsildar, Samalkota, the second respondent, having initiated an enquiry against the petitioner, by order dated 24-08-2005, suspended the authorization. Against the said order, the petitioner filed W.P.No.26615 of 2005. This Court, having taken note of the fact that the petitioner preferred an appeal before the first respondent-Joint Collector, which is pending, while observing that in the absence of any misappropriation or serious irregularities, suspension of authorization may not be just and proper, disposed of the writ petition, by order dated 14-12-2005, with a direction to the first respondent to dispose of the appeal itself, and till then the impugned order of

suspension shall stand stayed and the petitioner shall be permitted to distribute the essential commodities. It is not in dispute that in pursuance of the said order dated 14-12-2005, the second respondent by order dated 29-12-2005, restored the authorization of the petitioner. However, subsequently Crime No.12 of 2006 was registered against the petitioner for the offence punishable under Section 406 IPC on 18-01-2006 and consequently, in terms of Clause 3 (5) of the Andhra Pradesh State Public Distribution Control Order, 2001, the authorization of the petitioner was suspended pending finalization of the criminal proceedings by order dated 24-01-2006 by the second respondent. The said order dated 24-01-2006 is under challenge in this writ petition.

I have heard the learned counsel for both the parties and perused the material on record.

The learned counsel for the petitioner vehemently contends that since Crime No.12 of 2006 was registered against the petitioner on the very same allegation that the petitioner was guilty of diversion of Qts.88.97 kgs of SGRY rice, the impugned order of suspension dated 24-01-2006 is arbitrary, illegal and not bona fide.

A perusal of the impugned order dated 24-01-2006 shows that Crime No.12 of 2006 was registered on the basis of the report submitted by the third respondent-Mandal Revenue Officer, Samalkot, informing that the MPDO, Samalkota in her latter dated 05-01-2006 reported that the petitioner had not delivered the SGRY rice to the labour even though they produced rice coupons. It is also clear from the impugned order that the allegation against the petitioner on the basis of which Crime No.12 of 2006 registered was that the petitioner was guilty of mis-utilization of Qts.88.97 kgs of SGRY rice. Since on the very same allegation the authorization of the petitioner was earlier suspended and this Court in W.P.No.26615 of 2005 by order dated 14-12-2005, having considered the gravity of the allegation against the petitioner, directed that the appeal preferred by the petitioner against the order of suspension be disposed of and till then the

petitioner shall continue to distribute essential commodities, I am of the opinion that the second respondent ought not to have suspended the authorization of the petitioner on the very same ground.

Accordingly, the impugned order of suspension dated 24-01-2006 is set aside and the first respondent-Joint Collector is directed to disposed of the appeal pending on his file as expeditiously as possible preferably within a period of four weeks from the date of receipt of a copy of this order. It is made clear that in the mean while, it is open to the respondents to proceed with the disciplinary proceedings initiated against the petitioner as well as the investigation in Crime No.12 of 2006 registered under Section 406 IPC and to take appropriate action in accordance with law.

The writ petition is accordingly disposed of. No costs.

(G. ROHINI, J)

Date:09-03-2006

ghn